

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.12.2006

CORAM

THE HONOURABLE MR. JUSTICE P.SATHASIVAM
AND
THE HONOURABLE MR. JUSTICE S.TAMILVANAN

W.P.No.40110 of 2002

R.C.Sekar ... Petitioner.
Vs

- 1.The Union of India rep. by its Under Secretary,
Ministry of Home Affairs,
Lodhi Road, New Delhi.
- 2.The Inspector General,
Central Industrial Security Force,
RCFL Complex, Chembur, Mumbai.
- 3.The Deputy Inspector General,
CISF, Southern Zone, D-Block, Rajaji Bhavan,
Besant Nagar, Chennai-90.
4. The Group Commandant,
CISF, Group Hqrs., Chennai. Respondents.

Prayer:- Writ petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus to call for the records of the 2nd respondent in No.V-110014/18/SZ/LC/SWS/02/S243 dated 2.07.2002, the Order of the 3rd respondent in No.V-11014/06/2002/ L&R(SZ)/1997 dated 12.03.2002 and the order of the 4th respondent in No.V-15014/RCS/SSP/AD-VI/2001/6449 dated 29.10.2001 and quash the same and direct the respondents to reinstate the petitioner immediately with back wages, seniority and all service benefits and bother benefits which the petitioner is entitled as per law.

For Petitioner : Mr.T.Kumar
For Respondents : Mr.M.Dhamodharan, SCGSC.

O R D E R

(Order of the Court was made by P.SATHASIVAM,J.)

Aggrieved by the orders passed by the 2nd respondent dated 2.7.2002, 3rd respondent dated 12.3.2002 and the 4th respondent dated 29.10.2001, the petitioner has filed the above writ petition

to quash all those orders and issue a direction to the respondents to reinstate him immediately with backwages, seniority and all service benefits.

2. Heard the learned counsel for the petitioner as well as the respondents.

3. When the petitioner was serving as a Constable in CISF Unit, the following four charges were levelled against him:-

Article of Charge-I

That No.882297802 Constable R.Chandrasekar of CISF Unit, Salem, had overstayed the leave for 109 days from 25.12.2000 to 12.04.2001 without any permission or proper authority. This act on the part of No.882297802 Constable R.Chandrasekar amounts to indiscipline, violation of instructions and unbecoming of a member of the Force.

Article of Charge -II

I That No.882297802 Constable R.Chandrasekar of CISF Unit, SSP, Salem, was sent 05 call up letters directing him to report for duty immediately to his home address out of which he has acknowledged two call up letters, but he failed to report for duty on receipt of the same and over stayed the leave which amounts to indiscipline, disobedience of orders and unbecoming of a member of the Force.

Article of Charge-III

That No.882297802 Constable R.Chandrasekar of CISF Unit, SSP Salem, had submitted false information regarding his self-marriage in the leave application. He has requested for 25 days extension of leave on the reason of his sister's (two) marriage and on reporting for duty after OSL he has stated that his marriage had not taken place and his sister marriage had taken place on 11.2.2001. There is nothing in service record to show that the individual has two sisters. Thus, he has given false information which is an act of indiscipline and unbecoming of the member of the Force.

Article of Charge-IV

That No.882297802 Constable R.Chandrasekar of CISF Unit, SSP Salem, as per his past record has been found in the habit of becoming OSL twice and once entered in altercation/quarrel with a civilian and used physical Force and created bad scene. Thus his conduct is far from satisfactory as a Force member. In spite of being punished for the above acts and chances given to him he had failed to improve his conduct and work which amount to act of indiscipline and unbecoming of a member of the Force.

4. It is not in dispute that departmental enquiry was conducted, wherein the petitioner participated. He was given full opportunity. In the enquiry, Charge Nos.1, 2 and 4 have been found proved and Charge No.3 was found proved to the extent that the petitioner has submitted false information regarding his self marriage in his leave application. After considering all the materials, representation of the petitioner etc., the Disciplinary Authority, viz., Group Commandant, CISF, Group Headquarters, Chennai, awarded the punishment of removal from service by order dated 24.10.2001.

5. Aggrieved by the aforesaid punishment, the petitioner preferred an appeal to the Appellate Authority, viz., D.I.G., Southern Zone, CISF, Chennai, and the said authority, after considering his grounds of appeal, rejected the same on 12.3.2002. Aggrieved with the orders of the Disciplinary and Appellate Authorities, the petitioner submitted a revision petition on 27.03.2002 raising several contentions. By order dated 2.7.2002, the Revisional Authority, after analysing the proved charges, orders passed by the Disciplinary and Appellate Authorities, concurred with their conclusion and rejected the revision petition. Questioning those orders, the petitioner has filed the above writ petition.

6. The learned counsel appearing for the petitioner contended that his absence or overstayed for a period of 109 days was due to valid reasons, viz., to make arrangements for his marriage as well as his two sisters.

7. It is not in dispute that in the enquiry, it was found that no marriage was performed and the petitioner had not mentioned and referred to about his two sisters in the service records. Though the petitioner has offered explanation for his overstay for a period of 109 days, it is not in dispute that the same was considered by all the three authorities, viz., Disciplinary, Appellate and Revisional Authorities and rejected his explanation. It is not in dispute that the petitioner had put in 13 years of service. Under such circumstances, he cannot plead ignorance about

the Rules and Regulations and the procedure to be adopted. The orders also show that his past record of service is not satisfactory. It shows that he overstayed for 361 days and 224 days apart from the present one, viz., 109 days. It was rightly observed by the Revisional Authority that the petitioner's is not only habitual, but also cannot reform himself in spite of two penalties, viz., one major and one minor, awarded earlier. All these factual conclusion by three authorities cannot be ignored lightly. Though the learned counsel for the petitioner prayed for leniency in awarding punishment, in view of the fact that there was fair enquiry, he was offered adequate opportunity in the said enquiry and all his grievances were duly considered by three authorities, viz., Disciplinary, Appellate and Revisional Authorities and taking note of his past record of service, we are not inclined to accept the request of the petitioner. On the other hand, we are in agreement with the conclusion arrived by all the three authorities.

8. In net result, the writ petition fails and the same is dismissed. No costs.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

bs/
To

1. The Under Secretary,
Union of India,
Ministry of Home Affairs,
Lodhi Road, New Delhi.
2. The Inspector General,
Central Industrial Security Force,
RCFL Complex, Chembur, Mumbai.
3. The Deputy Inspector General,
CISF, Southern Zone, D-Block, Rajaji Bhavan,
Besant Nagar, Chennai-90.
4. The Group Commandant,
CISF, Group Hqrs., Chennai.

1 cc to Mr.T. Kumar, Sr. 40295
1 cc to Mr.M. Dhamodharan, Sr. 59701

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